

### Remarks

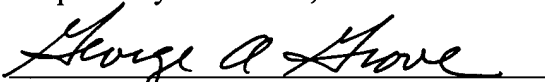
The Examiner requires Applicants, under 35 U.S.C. 121, to elect a single disclosed species of two metal elements for initial prosecution. The Examiner is urged to reconsider this two metal element limitation for the following reasons.

The requirement is based on the generic recitation of claim 1, "A method of making a crystalline metal oxide powder material comprising two or more metal elements combined in uniform proportions with oxygen in the crystal structure,...". However, a focus of this invention is to make a  $\text{LiNiO}_2$  type crystalline material of  $\text{Li}(\text{Ni}_x\text{M}_{1-x})\text{O}_2$ , where M is one or more dopant metals. In this species of the invention three or more metals (lithium, nickel and at least one dopant metal) are combined in the crystalline metal oxide powder material.

Accordingly, applicants provisionally elect to initially prosecute claims 5-11, each of which requires the combination of lithium, nickel and one or more dopant metals, M, such as cobalt, aluminum and/or magnesium for the  $\text{LiNiO}_2$  type crystalline material.

Applicants urge the Examiner to consider all of claims 1-11 in the prosecution of this application. If the Examiner considers claims 1-4 in this application along with claims 5-11, Applicants elect the species of lithium and nickel for examination of generic claims 1-4.

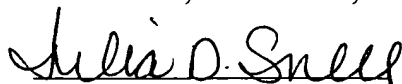
Respectfully Submitted,



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### **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: 2/7/05.



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